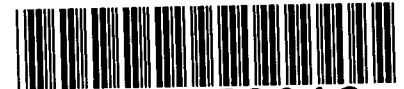


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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2016 AUG 23 PM 2 30

IN THE MATTER OF THE.

DOCKET NO. S-20953A-16-0061

ROBERT J. MOSS AND JENNIFER L. MOSS,
husband and wife,

THE FORTITUDE FOUNDATION, an Arizona
corporation,

VENTURES 7000, LLC, an Oklahoma limited
liability company,

JEFFREY D. McHATTON AND STARLA T.
McHATTON, husband and wife,

ROBERT D. SPROAT AND JANE DOE SPROAT,
husband and wife,

KEVIN KRAUSE, a single man, and

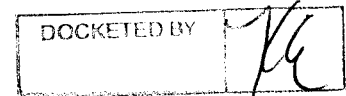
VERNON R. TWYMAN, JR., a single man,

Respondents

Arizona Corporation Commission

DOCKETED

AUG 23 2016



TENTH
PROCEDURAL ORDER
(Grants Continuance and Extends
Date for Exchange of Witness Lists
and Exhibits)

BY THE COMMISSION:

On February 23, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed a Temporary Order to Cease and Desist (“T.O.”) and a Notice of Opportunity for Hearing (“Notice”) against Robert J. Moss and Jennifer L. Moss, husband and wife, The Fortitude Foundation (“TFF”), an Arizona Corporation, Ventures 7000, LLC (“Ventures”), an Oklahoma limited liability company, Jeffrey D. McHatton and Starla T. McHatton, husband and wife, Robert D. Sproat and Jane Doe Sproat, husband and wife, Kevin Krause, a single man, and Vernon R. Twyman, Jr., a single man, (collectively “Respondents”), in which the Division alleged multiple violations of the Arizona Securities Act (“Act”) in connection with the offer and sale of securities in the form of interests, stock and promissory notes. Respondent spouses, Jennifer L. Moss, Starla T.

1 McHatton and Jane Doe Sproat, were joined in the action solely for the purpose of determining the
2 liability of the irrespective marital communities pursuant to A.R.S. 44-2031(C).

3 On March 24, 2016, counsel for the McHatton and TFF Respondents filed a request for hearing
4 in this matter. The McHatton and TFF Respondents, with the agreement of the Division, also filed a
5 Stipulation that extended the date for the filing of their Answer to April 11, 2016.

6 On March 31, 2016, by Procedural Order, a pre-hearing conference was scheduled on April 20,
7 2016.¹

8 Additionally, on March 31, 2016, the Moss Respondents filed a request for hearing and further
9 requested 30 days to retain counsel and to file an Answer to the T.O. and Notice.²

10 On April 4, 2016, by Procedural Order, it was found that ample time would be available for the
11 Moss Respondents to retain counsel and that the pre-hearing conference could go forward on April 20,
12 2016, as previously ordered.

13 On April 6, 2016, the Division filed a response to the request for a 30 day delay by the Moss
14 Respondents. Therein, the Division noted the McHatton's and TFF were represented by attorneys who
15 had earlier indicated their representation of those parties in their request for hearing filed on March 24,
16 2016.

17 It was further noted by the Division that the Moss Respondents had been served on March 10,
18 2016, and the Division objected to the lengthy delay requested by the Moss Respondents to file their
19 Answer. Instead the Division proposed only a 10 day extension from the current due date of April 11,
20 2016 to April 21, 2016.

21 On April 8, 2016, by Procedural Order, the Moss Respondents were ordered to file their Answer
22 by April 29, 2016.

23 On April 11, 2016, the Answers of the McHatton and TFF Respondents were filed.

24 On April 20, 2016, at the initial pre-hearing conference, counsel for the Division and counsel
25 for the McHattons and TFF Respondents appeared. Neither of the Moss Respondents appeared and
26 counsel was not present on their behalf. After a brief discussion, it was learned that the Moss
27

28 ¹ As of the date of the First Procedural Order, the following Respondents had been duly served with copies of the T.O. and Notice: the Mosses; Ventures; the McHattons; TFF; and Kevin Krause.

² The Moss Respondents, in their request for a hearing, appeared to also request similar relief for TFF.

1 Respondents had inadvertently not been added to the proceeding's service list and that they did not
2 receive notice of the pre-hearing that had originally been scheduled on April 20, 2016.

3 On April 21, 2016, by Procedural Order, the pre-hearing conference was rescheduled to May
4 18, 2016, with notice provided to all parties who had requested a hearing or their attorney of record.

5 On April 29, 2016, the Division and the McHatton and TFF Respondents filed a Joint Motion
6 to reschedule the pre-hearing conference scheduled on May 18, 2016. Counsel for the parties cited
7 conflicting matters and suggested alternate dates for the proceeding to be rescheduled on May 24th, 25th
8 or 26th, 2016.

9 Additionally, on April 28, 2016, the Moss Respondents filed their Answer.

10 On May 3, 2016, by Procedural Order, the pre-hearing conference was rescheduled to May 25,
11 2016.

12 On May 5, 2016, counsel for the McHatton and TFF Respondents filed an Application to
13 Withdraw ("Application") as their counsel of record. Counsel indicated that the Application was being
14 made without the consent of their clients. Counsel further indicated that "conflicts" required their
15 withdrawal from the proceeding. It was also indicated that the McHatton and TFF Respondents had
16 been advised of all dates pending in the proceeding.

17 On May 6, 2016, a request for hearing was filed for Ventures by its manager, Vernon R.
18 Twyman, Jr., another named Respondent who has apparently not yet been served.

19 On May 10, 2016, the Division filed its response to counsel's Application and stated that the
20 Division did not oppose the Application.

21 On May 12, 2016, by Procedural Order, the Application by counsel for the McHatton and TFF
22 Respondents was granted.

23 On May 25, 2016, at the pre-hearing conference, the Division appeared with counsel.
24 Respondents Robert Moss, Jeffery McHatton and Starla McHatton appeared on their own behalf.
25 Several Respondents remain to be served and Respondent Krause who was served has not requested a
26 hearing. The Division indicated that would soon amend the Notice and requested that a hearing be
27 scheduled.

28 On July 1, 2016, by Procedural Order, a hearing was scheduled on September 19, 2016. As

1 indicated at the pre-hearing conference, the Division filed a Motion for Leave to File Amended
2 Temporary Order and Notice ("Motion for Leave").

3 No responses were filed to the Division's Motion for Leave.

4 On July 14, 2016, by Procedural Order, the Division's Motion for Leave was granted.

5 On July 19, 2016, the Division filed the Amended T.O. and Notice.

6 On July 21, 2016, the Moss Respondents and also on behalf of TFF filed a response to the
7 Amended T.O. and Notice requesting a hearing and a 30 day extension of time to file an Amended
8 Answer and for the exchange of the Witness Lists and Exhibits.

9 On July 26, 2016, the Division filed a response to the request for a 30 day delay by the Moss
10 Respondents to file their Amended Answer and for the exchange of Witness Lists and Exhibits. The
11 Division stated that, based on the service date of the Amended T.O. and Notice, the Moss Respondents'
12 Amended Answer is not due until August 19, 2016, and that if they were granted a 30 day extension to
13 file their Amended Answer, until September 19, 2016, that date is the date that the hearing is to
14 commence. Further, the Division argued that the Moss Respondents had not shown good cause for an
15 extension of time to file their Amended Answer and to exchange Witness Lists and Exhibits.

16 On August 2, 2016, counsel for Ventures and Respondent Twyman entered an appearance.

17 On August 4, 2016, the McHatton Respondents and also claiming representation for TFF filed
18 a response to the Amended T.O. and Notice requesting a hearing and a 15 day extension of time to file
19 an Amended Answer and for the exchange of Witness Lists and Exhibits.

20 On August 4, 2016, Respondent Kevin Krause filed a response to what appeared to be the
21 Amended T.O. and Notice in the form of an Answer. Respondent Krause had previously not appeared
22 in the proceeding earlier, but this filing will be treated as a request for hearing and Answer by the
23 Respondent appearing on his own behalf.

24 On August 5, 2016, the Division filed a response which contained a Motion to Extend Date to
25 Exchange Witness Lists and Exhibits pending the outcome of a Motion to Continue Hearing which the
26 Division anticipated would be filed by counsel for Respondents Twyman and Ventures after contact
27 between counsel for the Division and counsel for Twyman and Ventures. The Division stated that the
28 date for the exchange of Witness Lists and Exhibits has passed (August 5, 2016), and is requesting that

1 the exchange be postponed until the issue is decided on the anticipated Motion for a Continuance by
2 the Twyman and Ventures Respondents so that an actual exchange can take place prior to the hearing
3 rather than the Division unilaterally providing its Witness List and Exhibits to the Respondents.

4 On August 8, 2016, the Moss Respondents filed an Answer to the Amended T.O. and Notice.

5 On August 9, 2016, by Procedural Order, although unknown whether a Motion for a
6 Continuance would be filed by the counsel for Respondents Ventures and Twyman, an extension for
7 the exchange of the Witness Lists and Exhibits was granted until August 31, 2016.

8 In addition, on August 9, 2016, Respondents Ventures and Twyman filed a request for hearing
9 and a motion for at least a 90 day continuance citing a need for discovery and a need for additional
10 time for preparation for the hearing.

11 On August 11, 2016, the Division filed a Consent to Email Service and a Response to the
12 Motion for a Continuance by the Ventures and Twyman Respondents. The Division argued that the
13 Ventures and Twyman Respondents had been aware of the pending proceeding from sometime in early
14 May 2016, but their local counsel did not enter an appearance until August 2, 2016, and although
15 service had been made on Ventures, there is no evidence that Respondent Twyman had been personally
16 served prior to August 2, 2016.

17 On August 12, 2016, the Division sent an email containing the names and the docket number
18 for this matter to HearingDivisionServicebyEmail@azcc.gov from their designated email addresses.
19 The Hearing Division has verified the validity of the designated email address, which now appear on
20 the service list for this matter in addition to their addresses for U.S. Mail.

21 On August 16, 2016, the Ventures and Twyman Respondents filed a Reply to the Division's
22 August 11, 2016, filing that objected to a continuance of the proceeding. Respondents argued that a
23 continuance would not prejudice anyone.

24 On August 19, 2016, the Ventures and Twyman Respondents filed their Answer to the
25 Amended T.O. and Notice.

26 Under the circumstances, a brief continuance from the presently scheduled hearing in order to
27 allow the parties to adequately prepare for the proceeding should be granted. In light of the brief
28 continuance to be ordered hereinafter and to insure that the exchange of Witness Lists and Exhibits

1 shall be orderly, the date for the exchange should be extended. Lastly, the Division's Consent to Email
2 should be granted.

3 IT IS THEREFORE ORDERED that the **hearing shall be continued from September 19,**
4 **2016, to October 31, 2016, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street,
5 Hearing Room No. 1, Phoenix, Arizona.

6 IT IS FURTHER ORDERED that the parties shall also set aside November 1, 2, 3, 7, 8, 9,
7 10, 14, and 15, 2016, for additional days of hearing, if necessary.

8 IT IS FURTHER ORDERED that the date for the exchange of Witness Lists and Exhibits
9 by the Division and Respondents shall be extended from August 31, 2016 to September 16, 2016,
10 with courtesy copies provided to the presiding Administrative Law Judge.

11 IT IS FURTHER ORDERED that if the parties reach a resolution of the issues raised in the
12 Notice prior to the hearing, the Division shall file a Motion to Vacate the Proceeding.

13 IT IS FURTHER ORDERED that the request by the Division, to receive service of all filings
14 in this docket, including all filings by parties and all Procedural Orders and Recommended Opinions
15 and Orders/Recommended Orders issued by the Commission's Hearing Division, via its respective
16 designated email address rather than via U.S. Mail, is hereby approved.

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
18 Communications) is in effect and shall remain in effect until the Commission's Decision in this matter
19 is final and non-appealable.

20 IT IS FURTHER ORDERED that all parties must comply with Rules 31, 38, 39 and 42 of the
21 Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and
22 admission *pro hac vice*.

23 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
24 matter may opt to receive service of all filings in this docket, including all filings by parties and all
25 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
26 Commission's Hearing Division, via email sent to an email address provided by the party rather than
27 via U.S. Mail. **To exercise this option, a party shall:**
28

1. Ensure that the party has a valid and active email address to which the party has regular and reliable access (“designated email address”);
2. Complete a Consent to Email Service using the form available on the Commission’s website (www.azcc.gov) or a substantially similar format;
3. File the original and 13 copies of the Consent to Email Service with the Commission’s Docket Control, also providing service to each party to the service list;
4. Send an email, containing the party’s name and the docket number for this matter, to HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow the Hearing Division to verify the validity of the designated email address;
5. Understand and agree that service of a document on the party shall be complete upon the sending of an email containing the document to the designated email address, regardless of whether the party receives or reads the email containing the document; and
6. Understand and agree that the party will no longer receive service of filings in this matter through First Class U.S. Mail or any other form of hard-copy delivery, unless and until the party withdraws this consent through a filing made in this docket.

IT IS FURTHER ORDERED that a party’s consent to email service shall not become effective until a Procedural Order is issued approving the use of email service for the party. The Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing Division has verified receipt of an email from the party’s designated email address.

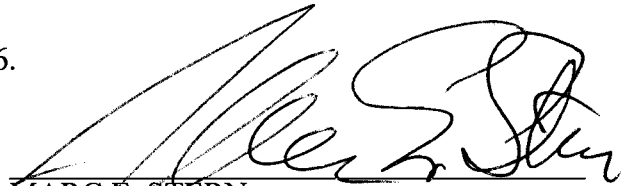
IT IS FURTHER ORDERED that a party’s election to receive service of all filings in this matter via email does not change the requirement that all filings with the Commission’s Docket Control must be made in hard copy and must include an original and 13 copies.

IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the Rules of the Arizona Supreme Court). Representation before the Commission includes appearances at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the

1 Administrative Law Judge or the Commission.

2 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
3 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
4 ruling at hearing.

5 DATED this 23rd day of August 2016.



MARC E. STERN
ADMINISTRATIVE LAW JUDGE

1 On this 23rd day of August, 2016, the foregoing document was filed with Docket Control as a
2 Procedural Order – Reschedules a Hearing, and copies of the foregoing were mailed on behalf of the
3 Hearing Division to the following who have not consented to email service. On this date or as soon as
possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing
to the following who have consented to email service.

4
5 Jeffrey D. McHatton
6 Starla T. McHatton
7 The Fortitude Foundation
8 P.O. Box 1983
9 Higley, AZ 85236

10 Robert J. Moss
11 Jennifer L. Moss
12 125 West Baylor Lane
13 Gilbert, Arizona 85233

14 Robert D. Mitchell
15 Megan R. Jury
16 Sarah K. Deutsch
17 Camelback Esplanade II, Seventh Floor
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19 2525 E. Camelback Road
20 Phoenix, AZ 85016
21 Attorney for Respondents Ventures 7000, LLC and Vernon R. Twyman, Jr.

22 Kevin Krause
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26 Securities Division
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Consented to Service by Email

22 COASH & COASH, INC.
23 Court Reporting, Video and Videoconferencing
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26 Rebecca Tallman
27 Assistant to Marc E. Stern
28